

CALIFORNIA TAX CREDIT ALLOCATION COMMITTEE

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May 24, 2006

To: California Tax Credit Allocation Committee Interested Parties

Re: Farmworker Housing Assistance Program

In February of this year, the California Tax Credit Allocation Committee (CTCAC) hosted a meeting with several stakeholders to discuss the Farmworker Housing Assistance Program (FHAP). During the meeting, several questions were raised regarding the program, its current status and compatibility with other CTCAC programs. Of particular interest, was the compatibility of the FHAP with the Low-Income Housing Tax Credit (LIHTC) programs administered by CTCAC and the current credits available under the FHAP.

We have determined that the aggregate amount of tax credits available through the FHAP as of January 1, 2006 is \$4,229,182. This balance includes the 2006 allocation of \$500,000 and unused credits from prior years. The ongoing annual allocation is \$500,000 per year as mandated by State statute. (Revenue and Taxation Code 23608.2 (i)).

I have attached a comparison chart that provides a convenient format for reviewing identified differences between the FHAP and the LIHTC programs. We have preliminarily determined that it is possible to fund a project with both FHAP tax credits and Low Income Housing Tax Credits, although there are some significant differences between them that must be taken into consideration when developing a project.

CTCAC anticipates releasing a Notice of Funding Availability for the FHAP in January 2007. The application could stand-alone or be submitted concurrently with a LIHTC application. CTCAC would propose that if an applicant were to apply for the credits concurrently, the LIHTC application would be submitted along with an addendum for the FWHAP.

If you have any questions or comments regarding this information, please feel free to contact me at (916) 654-6340.

Sincerely,

Lisa Vergolini
Deputy Executive Director

attachment

Differences Between LIHTC & FHAP

| LIHTC | FHAP | Using both Programs Together |
|--|---|---|
| 55 year compliance period. [TCAC Section 10337(c), IRC Section 42 (m), and IRC Section 42(h)(6)(D)]. | 30 year compliance period. [HSC Section 50199.50(b), RTC Sections 17058(c)(4)(C), and 23608.2(f)(1)] | Starting with year 31, FHAP requirements would discontinue and LIHTC program would continue until year 55. |
| Determines tax credits based on Eligible Basis. [IRC Section 42(d)(1)] | Determines tax credits based on Eligible Costs. [HSC Section 50199.50(c) and RTC Section 23608.2(b)] | Would need to determine tax credits on each program separately. |
| Limits housing to conventionally constructed units and manufactured housing. [IRC Section 168(2)(A)] | Does not limit housing to conventionally constructed units and manufactured housing. [HSC Section 50199.50(d)] | FHAP units must be conventionally constructed units and manufactured housing. |
| 9% Program has Housing Types (Large Family, Single Room Occupancy, “At-Risk,” Special Needs, and Seniors). [TCAC Section 10315(i)] 4% Program does not have Housing Types. | Limited to farmworkers. [HSC Section 50199.52(b)(1)] | If combined with the 9% tax credits, the project would have to be one of the housing types required by that program. The 4% program could be combined with FHAP. |
| Prohibits dormitory housing. (Federal Reg. Title 26, Part 1, Section 1.103-8(b)(7)(i)) | Allows dormitory housing and the restriction of occupancy by sex. [HSC 50199.52(b)(2)] | FHAP could not have dormitory type housing. The units would have to comply with LIHTC definitions |

| LIHTC | FHAP | Both Programs Combined |
|--|---|--|
| Does not allow an owner to demonstrate that there is no further need, or the project is no longer “economically feasible” to operate low-income housing and pay a pro rata portion of the credit back. (IRC 42) | Allows an owner to demonstrate that there is no further need, or it is no longer “economically feasible” to operate farmworker housing and pay a pro rata portion of the credit back. (HSC 50199.54) | FHAP could be demonstrated to have no further need, but the LIHTC Program would need to stay in place. |
| Low-rent housing program. (IRS Section 42) | Not a low-rent housing program. [HSC Section 50199.58(a)] | FHAP must restrict the rents to LIHTC guidelines. |
| Issues tax credits on only occupied housing units. (IRS Section 42) | Issues tax credits on vacant or occupied housing units. | FHAP could only receive tax credits on occupied housing. |
| Tax credits are only allowed if the taxpayer constructs or rehabilitates the property subject to the covenants, conditions, and restrictions imposed by LIHTC. | Tax credits are only allowed if the taxpayer constructs or rehabilitates the property subject to the covenants, conditions, and restrictions imposed by FHAP. | Would either have to combine both programs or separately issue tax credits based on each program. |
| Defines several “disqualifying events” and the penalties for those events regarding compliance as well as TCAC Regulations. (IRS Section 42) | Defines only two “disqualifying events” and the penalties for those events. [RTC Section 17053.14(k)(1)] | Would either have to combine all “disqualifying events” to use in both programs or keep the programs separate. |
| Issues tax credits to only the owner/applicant. (IRS Section 42) | Allows a credit against the “tax” for a bank or financial corporation. [RTC Section 23608.3(a)] | Would need to determine tax credits on each program separately. |